

IC 14-33-5.5

Chapter 5.5. Board of Directors in Lake County

IC 14-33-5.5-1

Applicability of chapter

Sec. 1. This chapter only applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-2

Appointment

Sec. 2. (a) Not later than twenty (20) days after an order establishing a district, the board of commissioners of the county shall appoint the initial board of directors. A director shall be appointed for each of the areas in the district established by the court.

(b) A director must have the following qualifications:

- (1) Be a freeholder domiciled in the area of the district for which the director was appointed.
- (2) Be qualified by knowledge and experience in matters concerning the development of the district.

(c) A majority of the directors must be:

- (1) freeholders domiciled in the district; and
- (2) petitioners for the establishment of the district.

For this purpose an officer or a nominee of a corporate freeholder of the district, if the corporation is a petitioner, is considered a petitioner.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-3

Election procedures

Sec. 3. (a) At each annual meeting of the district, directors shall be elected to fill vacancies on the board due to expiration of terms. The election shall be conducted by written ballots. To be elected an individual must receive a majority of the votes of the freeholders of the district who are:

- (1) present and voting in person; or
- (2) absent but have mailed or delivered a written ballot vote.

(b) A written ballot vote must be signed and mailed or delivered to the district office. A ballot is valid if delivered or received before the scheduled date of the annual meeting.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-4

Publication of invitation for nominations

Sec. 4. (a) Beginning October 24 and not later than November 1, the board shall invite nominations to fill vacancies on the board at the next annual meeting by one (1) publication in a newspaper of general circulation in each county in the district. Each publication must do the following:

- (1) Contain the names of the directors whose terms are expiring

and the area of the district involved.

(2) Invite nominations to fill vacancies.

(3) State the qualifications for the office as prescribed by section 2 of this chapter, except that a nominee does not have to have been a petitioner for the establishment of the district.

(b) Nominations for director must:

(1) be submitted to the office of the district in writing before December 1 following notice of vacancies; and

(2) be signed by at least five (5) freeholders from the areas designated by the secretary's notice.

(c) Nominations that are mailed are valid if:

(1) delivered or postmarked before December 1;

(2) the envelope has sufficient United States postage; and

(3) the envelope is addressed to the district's office.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-5

Annual meeting

Sec. 5. (a) The annual meeting of the district must be held at the time designated by the court:

(1) at the district's office; or

(2) at a place in or near the district as determined by resolution of the board adopted before December 1 of the year.

(b) Notice of the annual meeting of the district must be given by one (1) publication in a newspaper of general circulation in each county in the district at least fourteen (14) days and not more than thirty-one (31) days before the annual meeting. The notice must contain the following:

(1) The names of the nominees.

(2) The place where the election will be held.

(3) The time of the election.

(4) The fact that this is the annual meeting of the district.

(5) The purposes of the meeting.

(6) The time during which ballots may be cast.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-6

Ballots; list of eligible voters

Sec. 6. (a) Before the annual meeting, the board shall prepare the ballots and a list of the freeholders of the district. The list must be certified by the county auditor and placed in the district's files. A deficiency in this process or an omission of the names of any freeholders does not void action taken at an annual meeting.

(b) A freeholder as prescribed by IC 14-33-2-3 is entitled to only one (1) vote per freeholder.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-7

Voting procedures; results

Sec. 7. (a) At each annual meeting and before the election of directors, the chairman shall appoint three (3) freeholders of the district who are present at the annual meeting to act as clerks of and conduct

the election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the name of the freeholder in the presence of the secretary of the district. If the clerks find that a freeholder's name is erroneously omitted from the list, the clerks shall place the name on the list. The omitted freeholder is then entitled to cast a ballot.

(c) The clerks shall note the fact of receipt of a valid written ballot vote opposite the name of the freeholder who cast that vote. At this time the written ballot vote is considered cast.

(d) At the close of the election poll, the clerks shall count the ballots cast and make a report of the results. The secretary of the district shall record the results in the records of the district. The chairman shall then declare the successful nominees elected, and the elected directors are entitled to and shall assume all the duties of the office for which elected.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-8

Oath of office

Sec. 8. Promptly after appointment or election, a director shall take the following oath:

"I solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement."

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-9

Petition to appoint director

Sec. 9. If a district fails to conduct an election of directors as provided by this chapter, any interested person of the district may petition the board of commissioners of the county to appoint a director to fill vacancies. The board of commissioners of the county shall make an appointment not more than fifteen (15) days after the date the petition is filed.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-10

Multicounty districts

Sec. 10. For the purposes of this chapter, if the district is composed of land from more than one (1) county, the board of commissioners of each county may participate in the following:

- (1) The appointment of the initial board.
- (2) The filling of vacancies on the board.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-11

Terms

Sec. 11. (a) The board of commissioners of the county shall appoint the initial directors for the following terms:

- (1) If there are three (3) or five (5) directors, the terms are as follows:

- (A) One (1) term expires at the next annual meeting.
 - (B) One (1) term expires at the second annual meeting.
 - (C) One (1) term expires at the third annual meeting.
 - (D) Any other terms expire at the fourth annual meeting.
- (2) If there are seven (7) or nine (9) directors, the terms are as follows:
- (A) Two (2) terms expire at the next annual meeting.
 - (B) Two (2) terms expire at the second annual meeting.
 - (C) Two (2) terms expire at the third annual meeting.
 - (D) All other terms expire at the fourth annual meeting.
- (b) As the terms expire, each new director shall be elected for a term of four (4) years.
- As added by P.L.185-1995, SEC.3.*

IC 14-33-5.5-12

Notice of move or resignation

Sec. 12. A director who resigns or moves outside the district before the completion of the director's term must deliver written notification to each of the remaining members on the board of directors by registered mail.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-13

Challenge of residency by freeholder

Sec. 13. (a) A resident freeholder in the district may challenge the residency of a director by presenting a written petition that is signed by at least five (5) resident freeholders in the district to the board of directors by registered mail.

(b) The board of directors must hold a public meeting not more than fifteen (15) business days after receiving a petition under subsection (a) to determine if the director is domiciled in the district.

(c) Except for the director who is identified in the petition in subsection (a), each director may vote on whether or not the director is domiciled within the district.

(d) If the board of directors determines that the director is not domiciled within the district, that position immediately becomes vacant.

(e) A decision of the board of directors under this section may be appealed to the board of commissioners of the county. The appeal must be made not more than thirty (30) days after the board of directors' decision and must be in writing.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-14

Vacancies; notice

Sec. 14. Not more than fifteen (15) days after receiving notification of a vacancy under section 12 or 13 of this chapter, the board of directors must meet to prepare a notice for a newspaper of general circulation in the district to invite nominations to fill a vacancy. The notice must do the following:

- (1) Describe the area of the district that has a vacancy.

- (2) Invite nominations to fill the vacancy.
- (3) State the qualifications for the office.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-15

Vacancies; publication of notice

Sec. 15. Not more than twenty-five (25) days after receiving notification of a vacancy under section 12 or 13 of this chapter the board of directors shall publish the notice required under section 14 of this chapter.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-16

Vacancies; nomination

Sec. 16. (a) Twenty (20) days after publication of notice under section 15 of this chapter, a nomination for director may be submitted in writing to the office of the district. The nomination must be signed by at least five (5) freeholders from the area designated in the notice.

(b) A nomination that is mailed is valid if the nomination is:

- (1) delivered or postmarked not more than twenty (20) days after publication of notice under subsection (a); and
- (2) enclosed in an envelope that is:
 - (A) posted at not less than the first class postage rate; and
 - (B) addressed to the district office.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-17

Meeting to fill vacancies

Sec. 17. (a) Twenty-five (25) days after publication of the notice under section 15 of this chapter, the board shall give notice of the meeting by one (1) publication in a newspaper of general circulation in each county in the district. The notice must contain the following:

- (1) The names of the nominees for the vacant position.
 - (2) The place and time of the meeting where the election will be held, either at:
 - (A) the district office; or
 - (B) a place in or near the district.
 - (3) A statement that the meeting of the district is for an election to fill a vacancy on the board of directors.
 - (4) The time during which ballots may be cast.
- (b) Before the meeting, the board shall prepare the following:
- (1) The ballots.
 - (2) A list of the freeholders of the district that is certified by the county auditor and placed in the district's files.

A deficiency in this process or the omission of the name of a freeholder does not void the action taken at a meeting to fill a vacancy.

(c) The meeting to fill the vacancy must be at least fifty (50) but not more than fifty-five (55) days after publication of the notice under section 15 of this chapter.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-18

Clerks of election

Sec. 18. The chairman shall appoint three (3) freeholders of the district to do the following:

- (1) Attend the meeting.
- (2) Act as clerks of the election.
- (3) Conduct the election.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-19

Election by majority vote

Sec. 19. A director shall be elected by a majority written ballot vote of the freeholders of the district who are:

- (1) present and voting at the meeting to fill the vacancy; or
- (2) absent, but have mailed or delivered a written ballot vote to the district office before the scheduled date of the meeting.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-20

Freeholder entitled to one vote; omitted freeholders

Sec. 20. (a) A freeholder described in IC 14-33-2-3 is entitled to only one (1) vote. A freeholder must sign the list of freeholders opposite the freeholder's name:

- (1) before the casting of a vote; and
- (2) in the presence of the secretary of the district.

(b) If the clerks find that a freeholder's name is erroneously omitted from the list of freeholders, the clerks shall place the freeholder's name on the list. The omitted freeholder may then cast a ballot. The clerks shall note the receipt of a valid written ballot vote opposite the name of the freeholder who cast the vote, and the written ballot vote is considered cast.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-21

Results of election; oath of office

Sec. 21. (a) At the close of the election the following shall occur:

- (1) The clerks shall do the following:
 - (A) Count the ballots cast.
 - (B) Make a report of the results of the election.
- (2) The secretary of the district shall record the results of the election in the records of the district.
- (3) The chairman shall declare that the successful nominee is elected.
- (4) The newly elected director must take the following oath before assuming the duties of a director:

"I do solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement."

(b) A director who is elected to fill a vacancy under this section serves the remainder of the unexpired term.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-22

Petition to fill vacancy

Sec. 22. If a district fails to conduct an election to fill a vacancy under section 12 or 13 of this chapter, an interested person who is a freeholder in the district may petition the board of commissioners of the county to appoint a member to fill the vacancy until the next annual meeting. At the annual meeting a director shall be elected to complete the term.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-23

Regular meetings

Sec. 23. The board shall by resolution fix the time for holding regular meetings, but the board shall meet at least quarterly each year.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-24

Special meetings

Sec. 24. (a) Special meetings of the board may be called by the chairman or by two (2) members upon written request to the secretary. The secretary shall send to all members, at least three (3) days before a special meeting, a written notice fixing the time and place of the meeting.

(b) Written notice of a special meeting is not required if:

- (1) the time of the special meeting has been fixed in a regular meeting; or
- (2) all members were present at a meeting at which a special meeting was called.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-25

Quorum

Sec. 25. A majority of the board constitutes a quorum. An action of the board is official only if authorized by a majority of the board at a regular or properly called special meeting.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-26

Compensation

Sec. 26. As compensation the directors are entitled to an amount that the court orders, but not to exceed fifty dollars (\$50) for each day devoted to the work of the district. In addition, the directors shall be reimbursed for actual expenses, including traveling expense, at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-27

Officers

Sec. 27. Immediately following appointment and immediately following each annual meeting of the district, the directors shall meet and elect a chairman and a vice chairman. The vice chairman may act as chairman during the absence or disability of the chairman. The chairman shall promptly notify the commission in writing of the names and addresses of the officers and directors of the district, and the same information, together with the executed oaths, shall be filed with the circuit court.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-28

Employment and compensation of various employees

Sec. 28. (a) The board may appoint, prescribe the duties, and fix the compensation of the following:

- (1) A secretary.
- (2) A financial clerk.
- (3) An engineer.
- (4) Employees that are necessary for the discharge of duties and responsibilities of the board.

(b) A financial clerk shall execute a surety bond in the manner prescribed by IC 5-4-1.

(c) The board may make contracts for special and temporary services, including professional counsel.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-29

Location of principal office

Sec. 29. (a) At the first meeting of the first board, the board shall adopt by majority vote a resolution designating the location in or near the district where the district will maintain an office. The board may adopt a resolution by majority vote at any meeting of the board to change the location of the district's office. The board shall report the location of the office and a change in location to the court establishing the district.

(b) The board shall do the following:

- (1) Arrange for office space.
- (2) Keep a record of all transactions and minutes of all meetings in the office.
- (3) Keep all records and minutes available for inspection by any interested person of the district during the hours that the district office is open for business.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-30

Powers and duties

Sec. 30. The board shall do the following:

- (1) Exercise general supervision of and make regulations for the administration of the affairs of the district.
- (2) Prescribe uniform rules pertaining to investigations and

hearings.

(3) Supervise the fiscal affairs and responsibilities of the district.

(4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the district. The compensation must be reasonable and similar in amount to the compensation allowed employees performing similar service for the state and political subdivisions of the state. The board may delegate to employees authority to perform ministerial acts in all cases except where final action of the board is necessary.

(5) Keep an accurate and complete record of all district proceedings and record and file all bonds and contracts, assuming responsibility for the custody and preservation of all papers and documents of the district.

(6) Make an annual report to the court of income and expenses. The report must be submitted not later than thirty (30) days after the annual meeting and may include any of the following:

(A) A statement of the progress in accomplishing each purpose for which the district is established.

(B) Recommendations for amendment to the district plan.

(C) Any matter that the board believes should be brought to the attention of the court for instructions or approval.

(7) Adopt a seal and certify all official acts.

(8) Sue and be sued collectively by the legal name "_____ Conservancy District", with service of process made on the chairman of the board. However, costs may not be taxed against the directors individually in an action.

(9) Invoke any legal, equitable, or special remedy for the enforcement of this article or of any proper action of the board in a court.

(10) If advisable, establish an advisory committee.

(11) Exercise the powers granted under this article to accomplish each purpose for which the district is established.

(12) If a purpose of the district is the construction or maintenance of a levee in cooperation with the United States Secretary of the Army, divide, by resolution, the levee into maintenance sections and make assignment of each section to a director who must be a resident freeholder near the maintenance section. The director shall, upon assignment, supervise and assist in the maintenance of the assigned maintenance section.

(13) Protect against encroachment by a stream. The board may, alone or in cooperation with state or federal agencies, do whatever is necessary to provide bank stabilization for the protection of the works of improvement of the district.

(14) Insure property, personnel, and operations of the district against risks and in amounts that the board determines necessary to protect the district.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-31

Powers and duties; revenue bonds; rates and charges as liens

Sec. 31. (a) If the board issues revenue bonds for the collection,

treatment, and disposal of sewage and liquid waste, the board may do the following:

- (1) Establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
- (2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.
- (3) Establish rules and regulations.
- (4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.
- (5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.
- (6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.
- (7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.
- (8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.
- (9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.
- (10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.
- (11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.
- (12) Covenant with the holders of the revenue bonds for the following:
 - (A) Protection of the holders concerning the use of money derived from the sale of bonds.
 - (B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.
 - (C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statutes as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

- (1) attach;
- (2) are recorded;
- (3) are subject to the same penalties, interest, and reasonable

attorney's fees on recovery; and
(4) shall be collected and enforced;
in substantially the same manner as provided in IC 36-9-23-31 through
IC 36-9-23-32.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-32

Acceptance of state or federal aid; authority to enter into agreement with individuals and political subdivisions

Sec. 32. (a) The board may do the following:

- (1) Enter into an agreement with and accept money from a federal or state agency or department.
- (2) By the agreement provide the manner in which resulting debt is evidenced, with:
 - (A) the term;
 - (B) the interest rate; and
 - (C) the method and time of repayment;

subject to statutes governing the federal or state agency or department, without regard to other limitations of this article.

(b) The board may also enter into an agreement with a person, municipality, county, or special taxing district, whether or not the person, municipality, county, or special taxing district is in the district, for any purpose compatible with the purposes for which the district exists. The municipality, county, or special taxing district may enter into the agreement.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-33

Acceptance of gifts or funds authorized

Sec. 33. The board may accept gifts of money or other property to be used for certain aspects of a general purpose for which the district is established.

As added by P.L.185-1995, SEC.3.

IC 14-33-5.5-34

Petitions to enjoin or mandate action of board of directors

Sec. 34. An interested person adversely affected by an action committed or omitted by the board in violation of this chapter may petition the court having jurisdiction over the district to enjoin or mandate the board.

As added by P.L.185-1995, SEC.3.